IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

Crl.MC.No. 4063 of 2006()

CMP.3900/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PONNANI

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PETITIONER:

T.V. SHAMSUDEEN, S/O.MOIDEENKUTTY,
THAIVALAPPIL HOUSE, PONNANI SOUTH P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A. AKBAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 4063 of 2006

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Dated this the 11th day of January, 2007

O R D E R

The petitioner claims to be the owner of a Maruti 800 car, KL 06/C 5142. The police directed the petitioner to produce the said vehicle and accordingly the same was produced by the petitioner. It was seized from his possession under a mahazar. According to the petitioner, he is a bonafide purchaser of the vehicle from one Fr.Augustine Sebastian, the previous registered owner of the vehicle and the vehicle was transferred to the petitioner in accordance with law.

2. The police happened to seize the vehicle as they got information in the course of investigation of another crime from the accused in that crime that this vehicle is involved in some shady transactions. After the vehicle was seized and the same was examined, it was realised that though there is no tampering with the engine number of the vehicle, there is tampering of the chassis number of the vehicle. The original chassis number has been cut and another has been replaced in its place, it is now concluded by the

Investigator. It was hence that the vehicle was seized. There is no specific allegation raised that the chassis of the vehicle is that of any other stolen vehicle. The report of the Scientific Assistant, Document, D.C.R.B, which has been placed before this Court for perusal, indicates that there is no tampering of the engine number. There is such tampering so far as the chassis number is concerned.

3. The learned counsel for the petitioner submits that the petitioner is a bonafide purchaser for consideration and is not even allegedly involved in any culpable activity. The counsel further relies on the fact that the prosecution does not so far has a specific allegation that the chassis, which is alleged to be tampered, is a stolen property in any other crime. Investigation is only in progress.

4. The learned Prosecutor has placed the case diary before this court. The case diary indicates that the vehicle belonged to one Fr. Augustine Sebastian. It further shows that the vehicle was involved in a major accident and the Insurance Company had accepted the same to be a case of total loss. The vehicle, as per the case diary was sold to one Haneefa, the accused in the case and it is the case of the police that the transaction was through the said Haneefa. The petitioner does not accept that.

5. The learned Magistrate dismissed the petitioner's application for release of the vehicle to him on the ground that examination of the vehicle by the expert had not taken place. Now admittedly the Scientific Assistant had inspected the vehicle and a report has been submitted to the police.

6. The learned Prosecutor, in these circumstances, submits that the State has no objection in the vehicle being released to the petitioner, subject to appropriate conditions, which shall ensure the interests of a fair and proper investigation. I am satisfied that the vehicle can be released to the petitioner, as there is no dispute that the engine belongs to the petitioner and there is no allegation that the chassis, the number of which is allegedly tampered, is the stolen property in any other case. Of course, it will be for the Investigator to continue the investigation and ascertain details. Subject to appropriate conditions, the vehicle can be released to the petitioner.

7. This Crl.M.C. is hence allowed. It is directed that the vehicle shall be released to the petitioner on condition that the petitioner executes a bond for the value of the vehicle to be ascertained and fixed by the learned Magistrate. The petitioner shall not take the vehicle out of the State of

Kerala until further orders and shall make the vehicle available before Court/Investigating Officer as and when directed by the court to do so.

(R. BASANT)
Judge

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R. BASANT, J.

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Crl.M.C.No. 4063 of 2006

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Dated this the 2nd day of January, 2007

O R D E R

The learned Prosecutor explains that the investigation conducted so far revealed that the vehicle allegedly purchased by the petitioner belonged originally to one Fr. Augustine Sebastian. That vehicle had met with a major accident. The vehicle was covered by a valid insurance. It was reckoned as total loss. Through the Insurance Company the vehicle was sold to the accused, Haneefa. It was from him, according to the prosecution, that the petitioner herein purchased the vehicle. The vehicle belonging to the father, which was involved in total loss, was allegedly tampered with and a stolen car was substituted for th said car belong to Fr.Augustine. This in short is the contention of the Prosecutor. The learned Prosecutor submits that the report of the Scientific Assistant after detailed examination of the vehicle shall be produced before the court to induce the requisite satisfaction that the number shown on the vehicle at present is a tampered and altered one. The Public Prosecutor is granted time. Call on 10.1.2007.

(R. BASANT)
Judge

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